

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**THOMAS F. WETHERALL,  
BRENDA D. WETHERALL,**

**Appellants,**

**v.**

**GARY V. SKIBA, Trustee.**

**Appellee.**

**Civil Action No. 07-153 Erie**

**(Bankruptcy No. 05-11976)**

## Memorandum Order

On June 19, 2007, we signed an Opinion and Order in which we denied Appellants' Motion for Leave of Court to File Appeal Nunc Pro Tunc and dismissed this Bankruptcy Appeal. (Doc. 2, entered on the docket on June 20, 2007). In the opinion, we stated as follows:

It is undisputed that the Bankruptcy Court mailed notice of the March 13, 2006 Order only to Gary V. Skiba, and it does not appear that Debtors' counsel was served by electronic transmission. Thus, we can only speculate as to why the Bankruptcy Court failed to mail notice to the Debtors and failed to notify them by electronic transmission, despite indicating on the pleadings themselves that copies were to be served on both counsel.

(Doc. 2, at 4.)

We have since received a letter from Bankruptcy judge Warren Bentz indicating that: “the Bankruptcy Clerk’s docket shows that counsel for Appellants received service of the March 13, 2006 Memorandum and Order not once, but twice.”

Subsequent to the letter from Judge Bentz we received a copy of a letter from Debtors' counsel addressed to Judge Bentz in which he insisted that he had never been served with a copy of the Order by electronic transmission or otherwise.

This court is clearly caught in the middle of this disagreement, but nothing has been called to our attention which causes us to alter our original decision. Counsel should have monitored the case more closely so as not to miss such an order.

AND NOW, to-wit, this 9<sup>th</sup> day of July, 2007, this case stands as decided in our Memorandum opinion and Order of June 19, 2007.

Maurice B. Cohill, Jr.

Maurice B. Cohill, Jr.  
Senior United States District Judge

cc: Hon. Warren W. Bentz  
counsel of record